IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 167 OF 2006

IN

WRIT PETITION NO. 3470 OF 2006

Sadashiv Kashinath Shinde .. Appellant.

vs.

Mahesh Suresh Jagtap

& Ors. .. Respondents.

Mr. M.L. Patil for Appellant.

Mr. A.M. Joshi for Respondent Nos. 1 & 2.

Mr. R.M. Patne, AGP., for Respondent No. 5.

Coram: J.N. PATEL &,

A.A. SAYED, JJ.

Date: 16TH APRIL, 2007.

P.C.

. Heard.

2. This Letters Patent Appeal pertains to the claim of the appellant for being continued in service as a regular teacher with the respondent institution. The appellant's service came to be terminated which was challenged before the School Tribunal in appeal. On

the basis of the evidence on record, the Tribunal held that the appellant was not appointed as an approved teacher by the 1st respondent on a recognised division but as an extra teacher. The learned Single Judge on examining the issue, concurred with the findings of the School Tribunal and dismissed the petition filed by the teacher by taking into consideration even the practice adopted by the management for engaging teachers on training and on lesser salary thereby exploiting them and found that this has to be examined by the Education Department.

3. We repeatedly asked the learned counsel appearing for the appellant teacher to show us any material on record that the appellant was appointed on a clear vacancy. Admittedly, the appellant teacher has no letter of appointment. He might have worked in the institution for a certain period of time, but, in the absence of any appointment made against a vacant post, the teacher has no right to claim permanency/ regularisation and, therefore, the termination of the appellant cannot be said to be illegal. We, therefore, do not find any merit in the Letters Patent Appeal. The same is dismissed. No order as to costs.

(J.N. Patel, J.)

(A.A. Sayed, J.)